

3219. Adulteration and misbranding of beer. U. S. v. 80 Cases of Bottled Beer. Default decree of condemnation, forfeiture, and destruction.
(F. & D. No. 5417. S. No. 2005.)

On November 10, 1913, the United States Attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 80 cases, more or less, each containing 4 dozen bottles of beer, remaining unsold in the original unbroken packages and in possession of O. W. Bequette, Flat River, Mo., alleging that the product had been shipped by the East St. Louis-New Athens Brewing Co., New Athens, Ill., and transported from the State of Illinois into the State of Missouri, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: (On cases and bottles) "Probst Supreme Lager Beer is the Supreme Effort of Master Brewers. This brew is fully matured—absolutely pure and wholesome—free from drugs, poison or chemical preservatives of any kind and will keep in any climate. It cannot be surpassed in quality. Guaranteed by E. St. Louis New Athens Brewing Co., New Athens, Ill., under the Food and Drugs Act June 30, 1906. Serial No. 11761." (Additional labels on bottles) "Brewed from selected barley malt and flavored with choicest imported Saazer hops. After the approved German method." The labels also bore pictorial representations of barley and hops.

Adulteration of the product was alleged in the libel for the reason that in the manufacture of same, some cereal or cereal product other than malt had been substituted in whole or in part for malt in such a manner as to, and it did, reduce and lower and injuriously affect the quality and strength of the product. Misbranding was alleged for the reason that the labels and brands on the bottles, to wit, "Brewed from selected barley malt and flavored from choicest imported Saazer hops," and said pictorial representations of barley and hops which appeared upon the labels and which formed a part of the labeling and branding of said bottles and cases, would create the belief and lead the purchaser thereof to believe that said product was an all-malt product, when, in truth and in fact, it was not an all-malt product, but, on the contrary thereof, some cereal or cereal product other than malt had been substituted therefor.

On January 15, 1914, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., May 26, 1914.

3220. Misbranding of wine of Chenstohow. U. S. v. 40 Cases of Alleged Wine of Chenstohow. Consent decree of condemnation and forfeiture. Product released on bond. (F. & D. No. 5419. S. No. 2004.)

On November 11, 1913, the United States Attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 40 cases of so-called "Celebrated Curative Wine of Chenstohow," remaining unsold in the original unbroken packages on the premises of the Michigan Central Railroad Co., Chicago, Ill., alleging that the product had been shipped by A. Skarzynski & Co., Buffalo, N. Y., to A. Skarzynski & Co., Chicago, Ill., and transported from the State of New York into the State of Illinois, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: (On bottles, shoulder label) "Gold Medal Poland Bitters" (Principal label) "Celebrated Curative Wine of Chenstohow. This wine has been known in Europe for many years as the discovery of the Pauline fathers of Chenstohow. At the natural science and

medical exhibition of Lemberg, 1907, this wine was awarded the gold medal, which proves its curative and hygienic qualities. Those who suffer with general debility, loss of strength or appetite, indigestion, constipation, piles, pains, etc., should use the curative wine of Chenstohow. Dose: Three times a day one or two tablespoonfuls of the wine alone or in water immediately after meals. Children, a teaspoonful, or according to age. Price \$1.00. Gold Medal Lemberg 1907 (representations of gold medals). Copyright No. 1510. Registered 12-12-1905. Trade Mark (representation of monastery). Incorporated A. Skarzynski & Co. Buffalo, N. Y. Guaranteed under the pure food and drugs act June 30, 1906. Guaranty No. 9077. Contains alcohol 17 to 19% In the form of wine." It was also labeled in a foreign language, and the labels also contained representations of medals and a representation of a monastery.

Misbranding of the product was alleged in the libel for the reason that the statements contained in the labels borne upon each of the bottles containing the drug product and the representations of medals and the representation of a monastery were false and misleading, in that said statements and said representations of medals and said representation of a monastery on the labels represented to the purchaser that the drug product aforesaid was a drug product known as "Wine of Chenstohow" which had been manufactured in the city of Chenstohow in Russian Poland, whereas, in truth and in fact, the drug product aforesaid was not the genuine "Wine of Chenstohow" manufactured in the city of Chenstohow in Russian Poland, but was a sweetened wine having in solution the extractive matter from some laxative or emodin-bearing product, and was manufactured in the city of Buffalo in the State of New York in the United States of America. Misbranding was alleged for the further reason that each of the bottles containing the drug product was packed in a carton, which said carton failed to bear a statement in the label thereon of the quantity or proportion of alcohol contained in said drug product aforesaid. Misbranding was alleged for the further reason that the statements contained in the labels on the bottles and the representations of medals and the representation of a monastery misled the purchaser into the belief that the drug product aforesaid was manufactured in the city of Chenstohow in Russian Poland, whereas, in truth and in fact, it was manufactured in the city of Buffalo in the State of New York in the United States of America.

On January 6, 1914, the said A. Skarzynski & Co., claimant, having filed its answer admitting the material allegations in the libel and the court having read and considered the same, and having heard the arguments of counsel, and being advised in the premises, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be surrendered and delivered to said company upon payment of the costs of the proceeding and the execution of bond in the sum of \$500, in conformity with the act, conditioned that said claimant should relabel each of the bottles of the product in tenor and form as follows:

1. That there should be placed immediately below the shoulder label containing the words "Gold Medal Poland Bitters" a label bearing in prominent letters the following words: "Made in Buffalo, New York, U. S. A."
2. That immediately above the principal label there should be placed a label bearing in prominent letters the following words: "Medical Compound." "This product is manufactured in Buffalo, New York, U. S. A."
3. That there should be completely obliterated that portion of the label appearing to the left of the center of said label, the following words: "This wine has been known in Europe for many years as the discovery of the Pauline fathers of Chenstohow."

4. That there should also be obliterated from that portion of the label appearing to the right of the center panel of said label, the following words: "W starym kraju znane od Dawnych lat, jako wynalazek oo. Paulinow w czestochowie."

5. That there should be placed upon each of the cartons containing each of the bottles filled with the drug product aforesaid, and immediately over the words "Medicinal Compound," appearing on each of said cartons, a label bearing in prominent letters the following words: "This product is manufactured in Buffalo, New York, U. S. A." "Contains alcohol 17 to 19 percentum in the form of wine."

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., June 8, 1914.

3221. Adulteration and misbranding of Hercules medicinal beer. U. S. v. 500 Cases of Hercules Medicinal Beer. Consent decree of condemnation and forfeiture. Product ordered released on bond. (F. & D. No. 5425. S. No. 2003.)

On November 13, 1913, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 500 cases, each containing 2 dozen bottles, of a product purporting to be medicinal beer, remaining unsold in the original unbroken packages and in possession of the New York and Baltimore Transportation Line, New York, N. Y., alleging that the product had been shipped on or about October 30, 1913, by the Standard Brewery Co., Baltimore, Md., and transported from the State of Maryland into the State of New York for further transportation to the Island of Porto Rico, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: (On cases) "2½ Galls. Tonic—Handle With Care"; (on gummed label) "International Union of the United Brewery Workmen"; (on bottles) "Hercules Medicinal Beer—containing malt, hops, lithium carbonate, and other medicinal ingredients. Recommended as a tonic, sedative assistant for the treatment of indigestion, dyspepsia, anæmia, mal nutrition, etc., etc. A pleasant restorative for nursing mothers and convalescents. Only the best materials are used and the process is conducted with scrupulous care. Our medicinal beer contains all the nutritive virtues of the best malt tonic, and will fully satisfy the medical profession as the most palatable efficacious assistant to insure healthy appetite, good digestion, restore refreshing sleep, strengthen the nervous system, build up the constitution and as a valuable substitute for solid food. Directions—A wineglassful with each meal and on going to bed, or as may be directed by the physicians. Children in proportion to age. Contains from 3 to 4 per cent alcohol naturally produced, guaranteed by the manufacturers under the Food and Drugs Act June 30, 1906. Manufactured by Standard Brewery Co. Baltimore. This is a medicinal preparation, not a beverage." The labels on the bottles also bore certain statements of claims in the Spanish language.

Adulteration of the product was alleged in the libel for the reason that it purported to be manufactured from malt, hops, lithium carbonate, and other medicinal ingredients, when, in fact, some cereal or cereal product had been substituted for malt in the preparation of the article and it contained no appreciable amount of lithium salts, and such cereal or cereal product had been mixed with the article so as to reduce, and lower, and injuriously affect its quality and strength.

Misbranding was alleged for the reason that the product was an imitation and in that it was labeled and branded so as to deceive and mislead the pur-